

KEKER, VAN NEST & PETERS LLP
 JOHN W. KEKER - # 49092
 jkeker@keker.com
 JAN NIELSEN LITTLE - # 100029
 jlittle@keker.com
 BROOK DOOLEY - # 230423
 bdooley@keker.com
 633 Battery Street
 San Francisco, CA 94111-1809
 Telephone: 415 391 5400
 Facsimile: 415 397 7188

Attorneys for Defendant
 Sushovan Hussain

MORGAN, LEWIS & BOCKIUS LLP
 SUSAN D. RESLEY, Bar No. 161808
 susan.resley@morganlewis.com
 One Market, Spear Street Tower
 San Francisco, CA 94105
 Telephone: 415.442.1000
 Facsimile: 415.442.1001

MARTHA B. STOLLEY (*Pro Hac Vice*)
 martha.stolley@morganlewis.com
 101 Park Avenue
 New York, NY 10178
 Telephone: 212.309.6858
 Facsimile: 212.309.6001

GIBSON, DUNN & CRUTCHER LLP
 MICHAEL LI-MING WONG, Bar No. 194130
 mwong@gibsondunn.com
 555 Mission Street, Suite 3000
 San Francisco, CA 94105
 Telephone: 650.849.5393
 Facsimile: 1.650.849.5093

Attorneys for Hewlett-Packard Enterprise &
 Hewlett-Packard Company

UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

SUSHOVAN HUSSAIN,

Defendant.

Case No. 3:16-cr-00462-CRB

**STIPULATION, ~~PROPOSED~~ ORDER,
 AND NOTICE OF WITHDRAWAL
 REGARDING DEFENDANT'S MOTION
 TO COMPEL PRODUCTION OF
 UNREDACTED MEMORANDA,
 ECF NO. 213**

Judge: Hon. Charles R. Breyer

Date Filed: November 10, 2016

Trial Date: February 26, 2018

1 WHEREAS, on July 12, 2017, the Court granted Mr. Hussain's *ex parte* motion for an
2 Order Granting Issuance of a Rule 17(c) Subpoena to Hewlett-Packard Company ("HP");

3 WHEREAS, on July 19, 2017, Mr. Hussain served a Rule 17(c) on HP, which included
4 requests for "all summaries, notes and memoranda related to interviews" conducted by Proskauer
5 Rose LLP ("Proskauer") and Morgan Lewis & Bockius LLP ("Morgan Lewis")
6 (the "Summaries"), ECF No. 111-2;

7 WHEREAS, HP represented that it had already produced redacted versions of the
8 responsive non-privileged Summaries to the government and that those summaries were,
9 therefore, accessible to Mr. Hussain;

10 WHEREAS, on October 16, 2017, defense counsel requested that HP prepare and produce
11 a privilege log explaining which Summaries had been withheld or redacted, and why;

12 WHEREAS, on January 12, 2018, HP produced an initial privilege log;

13 WHEREAS, from January 16, 2018 through January 22, 2018, counsel for HP and
14 defense counsel engaged unsuccessfully in meet-and-confer efforts;

15 WHEREAS, on January 23, 2018, Mr. Hussain filed a motion to compel, through which
16 he sought the production of unredacted copies of the Summaries, either directly to defense
17 counsel or through *ex parte* lodging with the Court, ECF No. 213 (the "Motion");

18 WHEREAS, on January 26, 2018, HP offered to re-review the privilege log and produce
19 amended Summaries, where appropriate; to produce an amended privilege log; and to lodge with
20 the Court—*ex parte* and under seal—unredacted copies of the Summaries;

21 WHEREAS, on January 29, 2018, HP produced an amended privilege log, and
22 re-produced approximately 43 of the Summaries;

23 NOW, THEREFORE, Mr. Hussain and HP stipulate and agree as follows:

- 24 1. By February 6, 2018, HP will lodge with the Court, *ex parte* and under seal,
25 unredacted copies of any and all Summaries that Proskauer and Morgan Lewis
26 prepared, including Summaries that HP may have withheld entirely from
27 production. Consistent with the Court's prior Order, HP will also "note which
28 documents [they are] claiming are privileged, and shall set out the basis for [their]

assertion of privilege.” *See generally* ECF No. 125.

2. Mr. Hussain hereby withdraws his Motion, ECF No. 213.

3. Mr. Hussain and HP reserve all rights with respect to potential challenges to, or defense of, privilege designations or redactions.

Respectfully submitted,

Dated: January 30, 2018

KEKER, VAN NEST & PETERS LLP

By: /s/ John W. Keker

JOHN W. KEKER
JAN NIELSEN LITTLE
BROOK DOOLEY

Attorneys for Defendant
Sushovan Hussain

Dated: January 30, 2018

MORGAN, LEWIS & BOCKIUS LLP

By: /s/ Susan D. Resley

SUSAN D. RESLEY
MORGAN, LEWIS & BOCKIUS LLP
One Market, Spear Street Tower
San Francisco, CA 94105
Telephone: (415) 442-1000
Facsimile: (415) 442-1001
susan.resley@morganlewis.com

MARTHA B. STOLLEY
MORGAN, LEWIS & BOCKIUS LLP
101 Park Avenue
New York, NY 10178-0060
Telephone: (212) 309-6000
Facsimile: (212) 309-6001
martha.stolley@morganlewis.com

MICHAEL LI-MING WONG
GIBSON, DUNN & CRUTCHER LLP
555 Mission Street, Suite 3000
San Francisco, CA 94105
Telephone: (650) 849-5393
Facsimile: (650) 442-5093
mwong@gibsondunn.com

Attorneys for Hewlett-Packard Enterprise &
Hewlett-Packard Company

CERTIFICATION OF CONCURRENCE FROM OTHER PARTIES

I, John W. Keke, am the ECF user whose ID and password are being used to file this Stipulation, [Proposed] Order, and Notice of Withdrawal Regarding Defendant's Motion to Compel Production of Unredacted Memoranda, ECF No. 213. In compliance with N.D. Cal. Civ. L.R. 5-1(i)(3), I hereby attest that each of the signatories has concurred in the filing of this document and has authorized the use of his or her electronic signature.

/s/ John W. Keke
JOHN W. KEKE

~~PROPOSED~~ ORDER

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: January 31, 2018



HONORABLE CHARLES R. BREYER
United States District Judge